

**NEVADA DEPARTMENT OF
CONSERVATION & NATURAL RESOURCES**

STATE ENVIRONMENTAL COMMISSION

HEARING ARCHIVES FOR

REGULATORY PETITIONS

COMMISSION PETITION NO. 2000-08

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-087-00

DOCUMENTS INCLUDED IN THIS FILE:

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

REGULATORY PETITIONS

ORIGINAL DRAFTED BY COMMISSION

ADOPTED BY COMMISSION

YES AS FILED AND CODIFIED BY LCB

Secretary of State
Filing Data

**For Filing Administrative
Regulations**

For Emergency
Regulations Only

Effective Date

Expiration Date

Governor's Signature

State Environmental Commission

Classification ☐ Proposed ☐ Adopted By Agency ☒ Temporary ☐ Emergency ☐

Brief description of action: **Petition 2000-08 (LCB File R-087-00)** proposes to permanently modify NAC 459 by amendments to NAC 459.95334 to increase fees currently assessed under the Chemical Accident Prevention Program (CAPP). The regulation provides for an increase in annual fees for the period until June 30, 2001 and then again on July 1, 2001.

Authority citation other than 233B: NRS 459.3824 (1-3) and 459.3833

Notice date: May 19, May 22, May 31 and June 8, 2000

Hearing date: June 20, 2000

Date of Adoption of Agency: June 20, 2000

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
PERMANENT PETITION 2000-08 (R-087-00)
STATE ENVIRONMENTAL COMMISSION**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 459. This permanent regulation deals with amendments to the fees of the chemical accident prevention program.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 2000-08 (R-087-00), was noticed four (4) times: May 19, May 22, May 31 and June 8, 2000 as a permanent regulation in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. A report was prepared that summarized the public meetings. Workshops were held on April 5, 2000 in Las Vegas, April 7, 2000 in Carson City and April 10, 2000 in Battle Mountain. The regulated community was mailed the proposed rules. The regulation was adopted by the State Environmental Commission on June 20, 2000. No verbal comments supporting or opposing the regulations were received. One written comment (exhibit 3) supporting the petition was submitted by Nevada Manufacturers Association. No written comments were received at the Commission's hearing opposing this permanent regulation. The public was also mailed the notice of intent and agenda through the Environmental Commission's mailing list. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

2. The number persons who:

(a)	Attended each hearing;	28
(b)	Testified at each hearing:	0
(c)	Submitted to the agency written comments:	1

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. See above statement for dates of the public notices and public workshops. No oral testimony was received that opposed or supported the permanent regulation. One written comment from Aervoe-Pacific Company (exhibit #2) regarding the Risk Management Program and the effectiveness of that program was raised and later resolved by discussions with Division of Environmental Protection staff. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (775) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 138, Carson City, Nevada 89706-0851.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted by the State Environmental Commission on June 20, 2000 with out any request for amendments.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

(a) Estimated economic effect of the regulation on the business which it is to regulate;

Businesses will see an increase in annual program fees. The program audits conducted by Chemical Accident Prevention Program (CAPP) staff have been beneficial to many businesses, particularly small businesses. The immediate effect of the increased fee would be increased operating cost. The long-term effects would ultimately manifest themselves as lower accident rates.

(b) Estimated economic effect on the public;

The adoption of this regulation is not anticipated to have a direct short or long term adverse economic impact upon the public.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The regulations do not overlap or duplicate any regulations of another state or local governmental agency.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The regulations are no more stringent than federal regulations.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The fees generated by this increase will fund two engineers and a half time clerical to implement the chemical accident program regulations for 39 regulated facilities. The fees as amended will result in approximately \$275,000 annually being collected from regulated clients.

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**FILED PERMANENT REGULATION OF THE
NEVADA STATE ENVIRONMENTAL COMMISSION**

LCB File No. R087-00

Explanation - Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

Authority: §§1-3, NRS 459.3824 and 459.3833.

Section 1. NAC 459.95334 is hereby amended to read as follows:

459.95334 1. An owner or operator shall pay the fee required by subsections 1 and 2 of NRS 459.3824 before July 31 of each year.

2. The amount of this annual fee for each facility will equal the sum of:

- (a) A base fee that is established pursuant to subsection 3; and
- (b) A graduated fee that is established pursuant to subsection 4.

3. The amount of the annual base fee that is authorized pursuant to subsection 1 of NRS 459.3824 is:

- (a) If the facility has a process that is subject to the tier A program or tier B program level 3, ~~[\$3,100.]~~ ***\$3,600.***
- (b) If the facility has a process that is subject to the tier B program level 2 and no process that is subject to the tier A program or tier B program level 3, \$2,000.
- (c) If the facility has a process that is subject to the tier B program level 1 and no process that is subject to the tier A program or tier B program level 2 or 3, \$250.

4. The amount of the annual graduated fee that is authorized pursuant to subsection 2 of NRS 459.3824 is ~~[\$10.50]~~ ***\$18*** per unit of substance at a facility. A unit of substance is the greater of:

- (a) The total amount of a tier A substance that is present at a facility divided by the tier A threshold quantity for the substance that is listed in NAC 459.9533; or
- (b) The total amount of a tier B substance that is present at a facility divided by the tier B threshold quantity for the substance that is listed in NAC 459.9533.

Sec. 2. NAC 459.95334 is hereby amended to read as follows:

459.95334 1. An owner or operator shall pay the fee required by subsections 1 and 2 of NRS 459.3824 before July 31 of each year.

2. The amount of this annual fee for each facility will equal the sum of:

- (a) A base fee that is established pursuant to subsection 3; and
- (b) A graduated fee that is established pursuant to subsection 4.

3. The amount of the annual base fee that is authorized pursuant to subsection 1 of NRS 459.3824 is:

- (a) If the facility has a process that is subject to the tier A program or tier B program level 3, ~~[\$3,600.]~~ ***\$4,100.***
- (b) If the facility has a process that is subject to the tier B program level 2 and no process that is subject to the tier A program or tier B program level 3, \$2,000.
- (c) If the facility has a process that is subject to the tier B program level 1 and no process that is subject to the tier A program or tier B program level 2 or 3, \$250.

4. The amount of the annual graduated fee that is authorized pursuant to subsection 2 of NRS 459.3824 is ~~18~~ \$23 per unit of substance at a facility. A unit of substance is the greater of:
- (a) The total amount of a tier A substance that is present at a facility divided by the tier A threshold quantity for the substance that is listed in NAC 459.9533; or
 - (b) The total amount of a tier B substance that is present at a facility divided by the tier B threshold quantity for the substance that is listed in NAC 459.9533.

Sec. 3. 1. This section and section 1 of this regulation become effective upon filing with the secretary of state.

2. Section 2 of this regulation becomes effective on July 1, 2001.

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